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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT TACOMA

10 JESSE KNERR,

11 Plaintiff,

12 v.

13 HENRY RICHARDS, *et al.*,

14 Defendants.

Case No. C08-5021 RJB/KLS

SECOND PRETRIAL SCHEDULING  
ORDER

15 This matter was stayed by Order dated March 31, 2009 pending Plaintiff's appeal of the denial  
16 of his motion for appointed counsel. Dkt. 59. The stay was lifted on May 6, 2009. Dkt. 61. A new  
17 scheduling order is now appropriate. It is, therefore, **ORDERED:**

18 **DISCOVERY**

19 All discovery shall be completed by **August 7, 2009**. Service of responses to interrogatories  
20 and to requests to produce, and the taking of depositions shall be completed by this date. Federal  
21 Rule of Civil Procedure 33(b)(3) requires answers or objections to be served within **thirty (30)**  
22 **days** after service of the interrogatories. The serving party, therefore, must serve his/her  
23 interrogatories at least **thirty (30) days** before the deadline in order to allow the other party time to  
24 answer.

25 **MOTIONS**

26 Any dispositive motion shall be filed and served on or before **September 5, 2009**. The  
27 motion shall include in its caption (immediately below the title of the motion) a designation of the

1 Friday upon which the motion is to be noted upon the court's calendar. That date shall be the fourth  
2 Friday following filing of the dispositive motion. All briefs and affidavits in opposition to any  
3 motion shall be filed and served not later than 4:30 p.m. on the Monday immediately preceding the  
4 Friday appointed for consideration of the motion. If a party fails to file and serve timely opposition  
5 to a motion, the court may deem any opposition to be without merit. The party making the motion  
6 may file a reply to the opposing party's briefs and affidavits, which also shall be filed and served  
7 pursuant to the requirements of Fed. R. Civ. P. 7 and Local Rule CR 7.

8 If a motion for summary judgment is filed, it is important for the opposing party to note the  
9 following:

10 A motion for summary judgment under Rule 56 of the Federal Rules of Civil  
11 Procedure will, if granted, end your case.

12 Rule 56 tells you what you must do in order to oppose a motion for summary  
13 judgment. Generally, summary judgment must be granted when there is no genuine  
14 issue of material fact -- that is, if there is no real dispute about any fact that would  
15 affect the result of your case, the party who asked for summary judgment is entitled  
16 to judgment as a matter of law, which will end your case. When a party you are  
17 suing makes a motion for summary judgment that is properly supported by  
18 declarations (or other sworn testimony), you cannot simply rely on what your  
complaint says. Instead, **you must set out specific facts in declarations,  
deposition, answers to interrogatories, or authenticated documents, as provided  
in Rule 56(e), that contradict the facts shown in the defendant's declarations  
and documents and show that there is a genuine issue of material fact for trial.  
If you do not submit your own evidence in opposition, summary judgment , if  
appropriate, may be entered against you. If summary judgment is granted,  
your case will be dismissed and there will be no trial.**

19 *Rand v. Rowland*, 154 F.3d 952, 962-963 (9<sup>th</sup> Cir. 1998) (emphasis added). Furthermore, Local  
20 Rule CR 7(b)(4) states that a party's failure to file necessary documents in opposition to a motion  
21 for summary judgment may be deemed by the court to be an admission that the opposition is  
22 without merit.

### 23 JOINT STATUS REPORT

24 Counsel and *pro se* parties are directed to confer and provide the court with a joint status  
25 report by no later than **October 17, 2009**. The joint status report shall contain the following  
26 information by corresponding paragraph numbers:

- 27 1. A short and concise statement of the case, including the remaining legal and factual

1 issues to be determined at trial;

2 2. A narrative written statement from each party setting forth the facts that will be offered  
3 by oral or written documentary evidence at trial;

4 3. A list of all exhibits to be offered into evidence at trial;

5 4. A list of the names and addresses of all the witnesses each party intends to call along  
6 with a short summary of anticipated testimony of each witness.

7 5. Whether the parties agree to arbitration or mediation under this district's arbitration  
8 program, and if so whether the arbitration will be final and conclusive or the right to trial de novo  
9 will be preserved (see Local Rule CR 39.1(d));

10 6. Whether the case should be bifurcated by trying the liability issues before the damages  
11 issues, or specially managed in any other way;

12 7. Any other suggestions for shortening or simplifying the trial in this case;

13 8. The date the case will be ready for trial, considering Local Rule CR 16 deadlines;

14 9. The dates on which trial counsel are unavailable and any other complications to be  
15 considered in setting a trial date;

16 10. Whether the trial will be by jury or non-jury;

17 11. The number of trial days required, and suggestions for shortening trial;

18 12. The names, addresses, and telephone numbers of all trial counsel and unrepresented  
19 (pro se) parties who intend to appear at trial.

20 If the parties are unable to agree on any part of the report, they may answer in separate  
21 paragraphs. **Separate reports are not to be filed.** Plaintiff's counsel (or plaintiff, if *pro se*) will be  
22 responsible for initiating communications for the preparation of the joint status report.

### 23 **PROOF OF SERVICE & SANCTIONS**

24 All motions, pretrial statements and other filings shall be accompanied by proof that such  
25 documents have been served upon counsel for the opposing party (or upon any party acting pro se).  
26 The proof shall show the day and manner of service and may be by written acknowledgment of  
27 service, by certificate of a member of the bar of this court, by affidavit of the person who served the

1 papers, or by any other proof satisfactory to the court. Such proof of service shall accompany both  
2 the original and duplicates filed with the Clerk. Failure to comply with the provisions of this Order  
3 can result in dismissal/default judgment or other appropriate sanctions.

4 The Clerk of Court is directed to send a copy of this Order to Plaintiff and to counsel for  
5 Defendants.

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7 DATED this 15th day of June, 2009.

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10 Karen L. Strombom  
11 United States Magistrate Judge  
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